

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )

4 )  
5 MUR 6009 )

6 SIGMON FOR CONGRESS AND )

7 DAVID K. BLANTON, AS TREASURER )

**CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY SYSTEM**

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11 **GENERAL COUNSEL'S REPORT**

12 Under the Enforcement Priority System, matters that are low-rated \_\_\_\_\_

13 \_\_\_\_\_ and are deemed inappropriate for review by the Alternative Dispute Resolution

14 Office are forwarded to the Commission with a recommendation for dismissal. The

15 Commission has determined that pursuing low-rated matters compared to other higher rated

16 matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to

17 dismiss these cases.

18 In this case, the complainant alleges that Sigmon for Congress and David K. Blanton,

19 as treasurer, (the "Committee") received an in-kind contribution from Hickory Travel and

20 Tours, Inc. ("Hickory Travel"), which allegedly provided the Committee with office space

21 and facilities for less than fair-market value. The complainant alleges that this activity

22 resulted in a prohibited in-kind corporate contribution by Hickory Travel in violation of 2

23 U.S.C. § 441b. The complainant further alleges that the Committee failed to properly report

24 these in-kind contributions in violation of 2 U.S.C. § 434(b).

25 Both the Committee and Hickory Travel provided responses asserting that the

26 Committee used the office space at Hickory Travel pursuant to an oral agreement entered

27 into by the parties. Specifically, separate affidavits submitted by the candidate and the owner

28 of Hickory Travel assert that the Committee and Hickory Travel entered into an oral

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1 agreement for the Committee's use of office space and other facilities. The responses also  
2 provided support for the fact that the Committee already paid \$2,788 for the office space,  
3 which the Committee reported on its pre-primary disclosure report. Both responses included  
4 a copy of an invoice from Hickory Travel for the remaining balance of \$7,063, which  
5 remained unpaid at the time the responses were submitted. Since filing its response, the  
6 Committee has reported an additional \$1,900 disbursement to Hickory Travel in its July 2008  
7 quarterly report.

8 Based on the information provided in both the complaint and the responses, it appears  
9 that the arrangement for the Committee's use of the office space may have been in the  
10 ordinary course of business. Accordingly, in furtherance of the Commission's priorities and  
11 resources, relative to other matters pending on the Enforcement docket, the Office of General  
12 Counsel believes that the Commission should exercise its prosecutorial discretion and  
13 dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

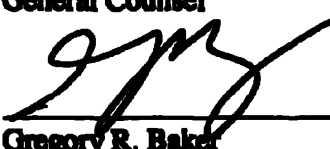
14 **RECOMMENDATION**

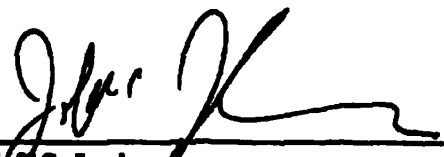
15 The Office of General Counsel recommends that the Commission dismiss  
16 MUR 6009, close the file effective two weeks from the date of the Commission vote, and  
17 approve the appropriate letters.

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21  
22 9/19/08  
23 Date

BY:

Thomasenia P. Duncan  
General Counsel

  
\_\_\_\_\_  
Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

  
\_\_\_\_\_  
Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

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William A. Powers  
Attorney

Attachment:  
Narrative in MUR 6009

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4 **MUR 6009**

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6 **Complainant:** Rebecca Yount

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8 **Respondent:** Sigmon for Congress and  
9 David K. Blanton, as treasurer  
10 Hickory Travel and Tours, Inc.

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12 **Allegations:** The complainant alleges that the Sigmon for Congress and David K.  
13 Blanton, in his official capacity as treasurer, (the "Committee") received an in-kind  
14 contribution from Hickory Travel and Tours, Inc. ("Hickory Travel"), which allegedly  
15 provided the Committee with office space and facilities for less than fair-market value.  
16 The complainant alleges that this activity resulted in a prohibited in-kind corporate  
17 contribution by Hickory Travel in violation of 2 U.S.C. § 441b. The complainant further  
18 alleges that the Committee failed to properly report these in-kind contributions in  
19 violation of 2 U.S.C. § 434(b).

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21 **Response:** The responses submitted by both the Committee and Hickory Travel  
22 assert that the Committee used office space at Hickory Travel pursuant to an oral  
23 agreement. Pursuant to the agreement, the responses assert that the Committee paid  
24 Hickory Travel for use of certain office space, the use of an automated calling service  
25 that Hickory Travel possessed, and the use of phone, copying, and facsimile services.  
26 The responses also provide a copy of one check from the Committee to Hickory Travel  
27 and an invoice for the remaining costs incurred by the Committee.

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29 **General Counsel's Note:** It does not appear that the Committee has violated the Act  
30 based on the available information. This Office believes that in light of the low EPS  
31 rating assigned to this case the Commission should exercise its prosecutorial discretion  
32 and dismiss this matter.

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34 **Date complaint filed:** May 12, 2008

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36 **Date response filed:** June 6, 2008 (Sigmon for Congress); June 27, 2008 (Hickory  
37 Travel and Tours, Inc.)  
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